IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Bail Appl..No. 4091 of 2007()

CRIME NO.24/04 OF CHELAKKARA POLICE STATION

PETITIONER/ACCUSED NO.3:

ABAIS, AGED 28, S/O.HAMSA,
OLICHIYIL HOUSE, NALIENCHIRA,VENGANOOR,
THALAPPILLY TALUK, THRISSUR DISTRICT.

BY ADV. SRI.K.A.SREEJITH

RESPONDENTS:

STATE OF KERALA REPRESENTED BY S.I. OF
POLICE, CHELAKKARA, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4091 of 2007

Dated this the 6th day of July 2007

O R D E R

Application for anticipatory bail. The petitioner is the third accused. He faces indictment in a prosecution for offences punishable inter alia under Section 3 of the P.D.P.P.Act. Cognizance has already been taken. Consequent to the failure of the petitioner to appear before the learned Magistrate, the case against the petitioner has been transferred to the list of long pending cases and he finds warrant of arrest and coercive processes issued by the learned Magistrate chasing him.

2. The learned counsel for the petitioner submits that the petitioner is innocent. His absence earlier was not wilful and was due to reasons beyond his control as he was employed abroad. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this petition is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007